

APPEAL NO. 022894  
FILED DECEMBER 27, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on October 14, 2002. The hearing officer determined that the appellant's (claimant) compensable injury sustained on \_\_\_\_\_, does not extend to and include lumbar intervertebral disc disorder with left radiculopathy; that the decision in Texas Workers' Compensation Commission Appeal No. 011175, decided July 12, 2001, is *res judicata* of the issues of maximum medical improvement (MMI) and impairment rating (IR); that in accordance with Appeal No. 011175, the date of MMI is November 4, 1997, and the IR is seven percent; and that the Texas Workers' Compensation Commission does not now have jurisdiction to determine MMI and IR. The claimant has only appealed the extent-of-injury determination, asserting that there is an October 22, 1999, Benefit Dispute Agreement (TWCC-24) which evidences that the respondent (self-insured) agreed that the claimant's 1997 injury included her lumbar area. The self-insured responds that the decision should be affirmed. The determinations that were not appealed have become final by operation of law. Section 410.169.

DECISION

Affirmed.

The hearing officer did not err in reaching the complained-of determination. The issue of extent of injury involved a question of fact for the hearing officer to resolve. The fact that there was an earlier agreement that the claimant sustained a lumbar injury is not dispositive of the issue of extent of injury. The evidence before the hearing officer was conflicting as to whether the condition of the lumbar spine was caused by or aggravated by the September 1997 compensable injury or was due to degeneration. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the evidence presented, we cannot conclude that the hearing officer's determination is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **(a self-insured governmental entity)** and the name and address of its registered agent for service of process is

**SUPERINTENDENT  
(ADDRESS)  
(CITY) TEXAS (ZIP CODE).**

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Michael B. McShane  
Appeals Panel  
Manager/Judge

CONCUR:

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Gary L. Kilgore  
Appeals Judge

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Edward Vilano  
Appeals Judge